

July 8, 2002

Letter of Appeal
Federal Communications Commission
Office of the Secretary
445 - 12th Street, SW
Washington, DC 20554

Re: *Duplicate of Letter of Appeal*
 CC Docket Numbers: Docket 96-45 and 97-21
 Application Number 316487

To Whom It May Concern:

The Baldwin Park Unified School District originally filed the enclosed Letter of Appeal with your office via facsimile on June 24, 2002. The enclosed documentation comprises a duplicate copy of that original filing but also includes the fax confirmation sheet as proof of the original filing. We have requested from your office via fax and telephone a written confirmation of receipt but have received nothing to date.

Please direct any questions or inquiries to the following contact person:

Contact Names: *Eddie R. Smith, Jr.*
Contact Phone: (661) 510-3685
Contact email: *ed_smith@pacbell.net*

Cordially,


Eddie R. Smith, Jr.

No. of Copies rec'd 0
List ABCDE



TEC Consulting and Management, Inc.

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Date: June 24, 2002

No. of Pages (including Cover Sheet): 9

To: Federal Communications Commission

Fax #: (202) 418-0178

Phone#: (202) 225-5322

From: Eddie R. Smith/ Franklin W. Fenton (BPUSD Entity #143572)

Subject: FCC Letter of Appeal of SLD Decision

Message:

Contact Names: Eddie R. Smith, Jr.

Contact Phones: (661) 510-3685

Contact email: ed_smith@pacbell.net

The attached is a Letter of Appeal of the SLD decision made on May 31, 2002. We have also attached a copy of the original letter of appeal filed with the SLD and all relevant documentation. Thank you for your consideration!

Eddie Smith

142 Fantasy Street, Palmdale, CA 93551
Tel. (661) 510-3685 Fax. (661) 224-9376
Email: ITECCMI@pacbell.net



Baldwin Park Unified School District

P.O. Box 3699 • 3699 North Holly Avenue, Baldwin Park, California 91706 • (626) 962-3311 • Fax (626) 856-4900

June 19, 2002

Letter of Appeal
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743
Facsimile No. (202) 418-0178

Re: Letter of Appeal
CC Docket Numbers: Docket 96-45 and 97-21
Application Number 316487

To Whom It May Concern:

The purpose of this letter is to request that the Schools and Libraries Division be permitted to read our Original Letter of Appeal filed on May 31, 2002. We respectfully request a review of the original SLD decision and that our Original Letter of Appeal be reviewed on its merits. The person to contact regarding the particulars of this appeal is

Eddie R. Smith, Jr.,
142 Fantasy Street
Palmdale, CA 93551
Telephone (661) 510-3685, Fax (661) 224-9376
Email address: ed_smith@pacbell.net

The Funding Request Numbers included in this application number are as follows: 842368, 842474, 842511, 842562, 842609, 842678, 843053, 843092, 843133, 843246, 843274, 843359, 843420, 843463, 843538, 843607, 843651, 843688, 843726, 843758, 843776, 843914, 843949, 843975, 843995, 844030, 844055, 844076, 844115, 844141, 844157, 844188, 844207, 844229, 844381, 844430, 844464, 844497, 844534, 844573, 844602, 844689, 844733, 844766, 844794, 844823, 844952, 845010, 845043, 845135, 845171, 845570, 845602, 845627, 845663, 845701, 845726, 845752, 845781, 845838, 845874, 845905, 845940, 846013, 846043, 846070, 846098, 846137, 846204, 846221, 846245, 846766, 846849, 846883, 846921, 846949, 846977, 847003, 847021, 847053, 847084, 847114, 847143, 847172, 847204, 847247, 847274, 847308, 847340, 847385, 847420, 847451, 847715, 847938, 847962, 847984, 848009, 848036, 848065, 848087, 852457, 852479, 852597, 852604, 852618, 852626, 852636, 852647, 852657, 852670, 852686, 852698, 852707, 852718, 852733, 852739, 852751, 852767, 852775, 852791

On April 4, 2002, our department received an SLD postcard indicating our "Form 471 has been received - but submitted after the 11:59P.M. EST, January 17 window close." Our Original Letter of Appeal sets out to show this conclusion to be incorrect as we had filed electronically within the time frame and had sent our support documents in a timely manner as well. Circumstances beyond our control caused our documents to arrive after the window close. Our documents were Fed-Ex shipped, subsequently misplaced by the shipper and delivered seven days after the close of the "priority filing window." The original shipping date of January 17, 2002 had been lined through by Fed-Ex and changed to January 24, 2002. This was confirmed to us in a phone conversation by a staff member of the Technical Client Service Bureau of the SLD who noted that the date on the Fed-Ex "air-bill receipt" had been lined through and changed!

Program guidelines specify that any letter appealing the administrators decision would have to be filed within 60 days to be considered filed "on time." The SLD made its decision on March 29, 2002 but the decision notification arrived at our offices after seven days. We immediately contacted the SLD for additional information and instructions as how to move forward as we believed we had made a reasonable effort to get the documents to the SLD on time.

BOARD OF EDUCATION

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Anthony J. Bejarano, *Member* • Sergio Corona, *Member* • Frank Rivas, *Member*
Mark M. Skvarna, *Interim Superintendent*

We conducted an exhaustive investigation and discovered that our original Block 6 Certification Letter had been lost in the mail while in the custody of Kinko's Copiers, an agent of Federal Express, the company with whom we shipped our Block 6 Certification. This investigation was extensive and took a great deal of time. Federal Express interviewed employees and checked their records as well as contacting Kinko's staff to find the cause of the loss of time. This investigation took nearly five full weeks before they could respond to our request for written documentation confirming that we shipped our letter to the SLD within the allotted time frame.

Federal Express contacted our Consultant, Eddie Smith, on April 29, 2002 via telephone to say that if Kinko's Copiers, as an agent of Federal Express, were willing to certify facts concerning this case, Federal Express would support Kinko's certification. We contacted the Kinko's Branch Office Manager, Mr. Terrence Powell, on April 29th to make the certification request. We also drafted a copy of a letter, which included the particular language required to demonstrate our compliance with SLD rules dated April 29, 2002. **Mr. Powell was unable to meet with us until May 7, 2002 to discuss what happened to our Block 6 Certification and our need for a Letter of Certification from his office to demonstrate that we filed our document on time. Mr. Powell, after consulting upper management, informed us that he would provide us with a Letter of Certification and did so on Monday, May 23, 2002. Mr. Powell modified our original letter dated April 29, 2002, signed it, and provided it to us.**

We recognized that the success of our appeal relied upon this Letter of Certification from Kinko's and Federal Express. Our reading of the SLD website concerning appeals, conversations with SLD Help Desk staff, and input from USAC legal staff had made that clear. **It took nearly two months to conduct our investigation and obtain this Letter of Certification from the time we received the SLD decision not to accept our original FCC Form 471.**

We then prepared our letter of appeal, the substance of which was greatly affected by Mr. Powell's statements. We followed the preparation guidelines listed on the administrators website. **We had lost a week due to the arrival of the SLD notice 7 days after the administrator's decision. We had to take the time necessary to fully investigate the reason for the loss of days in transit of our original supporting documents. It was critical to have Fed-Ex conduct their investigation and issue their letter of certification. We knew we were going to be close, if not past the timeline allowed. However, understanding that all this information was critical to the appeal process and the need for full and complete documentation of the facts, we took time to carefully draft our letter of appeal. We felt it important to make sure all considerable elements of our appeal were included and that it clearly demonstrated how the Baldwin Park Unified School District was the victim of circumstances beyond its control. As soon as we had completed our Letter of Appeal, we shipped it to the administrator and it arrived on May 31, 2002, 3 days after the due date.**

We respectfully request that you review the administrator's decision regarding our appeal. We also respectfully request that your office allow the SLD to review our appeal on its merits. We have taken the time to comply with the guidelines set forth by the SLD and to be sure the information required for a successful appeal was present. This did require an unusually lengthy period of time. We ask that you consider the conditions under which we were working and grant us relief so that our Original Letter of Appeal can be reviewed on its merits. We have included our original appeal documents for your further information. The Baldwin Park Unified School District is qualified at the 90% E-rate discount level at all of our 21 school sites. 90% of our students are from minority, migrant or immigrant families. Any technological training our students receive is, for the most part, dependant on our schools. We have enjoyed tremendous technological growth during the first four years of the E-rate funding. We have received state and national recognition for our K-12 technology programs **that include A+ certification programs for our high school students. Loss of this year's funding would be a devastating setback so we ask that you allow the SLD to review our Letter of Appeal.**

Cordially,



Franklin W. Fenton
Director, Baldwin Park Unified School District



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal

June 3, 2002

Franklin Fenton, Director of Information Services
Baldwin Park Unified School District
P.O. Box 3699, 3699 North Holly Avenue
Baldwin Park, CA 91706

Re: Application Number: 316487
 Funding Year: 2002-2003
 Date of Issuance of
 Postcard Notification: 03/29/2002
 Date Appeal Received: 05/31/2002

Our records show that your appeal was received more than 60 days after the date your Form 471 Certification-Rejection Letter was issued (see dates above). The Federal Communications Commission (FCC) rules require applicants to submit appeals so USAC/SLD receives them within 60 days of the date that the relevant Funding Commitment Decision Letter was issued. (See "Appeals Procedure" at <http://www.sl.universalservice.org/reference/AppealsProcedureYR4.asp>) The FCC rules do not permit the SLD to consider your appeal. If you wish to continue this process, you may submit a new appeal via the United States Postal Service, stating the impediment to your filing your appeal within the original time, to the FCC at the following address:

Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, DC 20554

If you are submitting your appeal to the FCC by means other than the United States Postal Service, check the SLD web site for more information. Please reference CC Docket Nos. 96-45 and 97-21 on the first page of your appeal. **The FCC must RECEIVE your appeal WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER for your appeal to be considered filed in a timely fashion.** Further information and new options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, www.sl.universalservice.org, or by contacting the Client Service Bureau at 1-(888)-203-8100.

Schools and Libraries Division
Universal Services Administrative Company



SLD LETTER OF APPEAL

Baldwin Park Unified School District

P.O. Box 3699 • 3699 North Holly Avenue, Baldwin Park, California 91706 • (626) 962-3311 • Fax (626) 856-4900

April 15, 2002

Letter of Appeals

Schools and Libraries Division
Box 125 – Correspondence Unit
80 S. Jefferson Road
Whippany, NJ 07981

Re: Letter of Appeal
Application Number 316487

To Whom It May Concern:

The purpose of this letter is to appeal the decision of the Schools and Libraries Division pertaining to considering our 2002-2003 E-Rate application as "filed within the priority filing window". The person to contact regarding the particulars of this appeal is

Eddie R. Smith, Jr.,
142 Fantasy Street
Palmdale, CA 93551
Telephone (661) 510-3685, Fax (661) 224-9376
Email address: ed_smith@pacbell.net

The Funding Request Numbers included in this application number are as follows: 842368, 842474, 842511, 842562, 842609, 842678, 843053, 843092, 843133, 843246, 843274, 843359, 843420, 843463, 843538, 843607, 843651, 843688, 843726, 843758, 843776, 843914, 843949, 843975, 843995, 844030, 844055, 844076, 844115, 844141, 844157, 844188, 844207, 844229, 844381, 844430, 844464, 844497, 844534, 844573, 844602, 844689, 844733, 844766, 844794, 844823, 844952, 845010, 845043, 845135, 845171, 845570, 845602, 845627, 845663, 845701, 845726, 845752, 845781, 845838, 845874, 845905, 845940, 846013, 846043, 846070, 846098, 846137, 846204, 846221, 846245, 846766, 846849, 846883, 846921, 846949, 846977, 847003, 847021, 847053, 847084, 847114, 847143, 847172, 847204, 847247, 847274, 847308, 847340, 847385, 847420, 847451, 847715, 847938, 847962, 847984, 848009, 848036, 848065, 848087, 852457, 852479, 852597, 852604, 852618, 852626, 852636, 852647, 852657, 852670, 852686, 852698, 852707, 852718, 852733, 852739, 852751, 852767, 852775, 852791

Our department received an SLD postcard that indicates our "...Form 471 has been received – but submitted after the 11:59P.M. EST, January 17 window close." Our letter of appeal sets out show this conclusion to be incorrect. Your office made the funding decision on our Form 471 on March 29, 2002.

Our FCC Form 471 was compiled online on January 16, 2002. We made online changes to our application the next day and we filed our application online on January 17, 2002. The Block 6 Signature Page was printed, signed and delivered to Kinko's Federal Express Drop off Center, an authorized Federal Express agent, located at 1113 W. Avenue P, Palmdale, CA 93551 by our Consultant Eddie Smith, Jr. The Federal Express desk service center was closed by the time our online application was submitted and our Block 6 Certification Page was prepared for filing. Mr. Smith completed the Federal Express billing slip (#833110538277) at the Kinko's Service center and requested that the Branch Office Manager (Mr. Terrence Powell) eyewitness him deposit the letter in the receptacle. Mr. Powell agreed provide Mr. Smith with written certification of such activity occurring on January 17, 2002 prior to 8:59 PST (11:59 EST), if necessary. We have never had shipping problems with Federal Express in the past and had no reason to believe that a problem would occur with this shipment method. Mr. Smith accepted the signed statement as per the SLD website, which states that applicants "...might submit signed statements about the facts of [our] case from people who have direct knowledge" in case where applicants

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Mark M. Skvarna, *Interim Superintendent*

appeal SLD decisions [Reference Area, Appeals Procedure 4/29/02]. The Notarized statement from the Branch Office Manager is also attached (Attachment A).

Mr. Smith checked the Federal Express tracking system over the next few days to make sure the letter arrived on time. When he did not find the tracking number in the Federal Express online system, we immediately began to investigate the whereabouts of our Certification letter. We contacted the Federal Express customer Service line, provided our Federal Express Tracking Number and requested that our document be tracked down. We contacted Kinko's and asked them to search for our document but it was not found in their service center. We also contacted the SLD Help desk to alert your office of a possible problem and to learn of possible options for addressing any that should arise. We were asked to understand that receiving tens of thousands of Block 6 Certifications caused a delay in processing and posting the application status on the SLD website. We continued to engage Federal Express and Kinko's pressing for answers as to what happened to our letter. On January 25, 2002 our application arrived at your offices and was certified as of January 24, 2002, 7 days after we shipped it. The tracking results from Federal Express search revealed that Federal Express originally scanned our shipment at Kinko's Federal Express Center, located at 855 E. Colorado Boulevard in Pasadena, California, seven days after and a full 60 miles away from where Mr. Smith originally deposited the letter. Our Block 6 Certification page disappeared for a full 6 days. **Furthermore, it was confirmed to us that our original shipping date of January 17, 2002 was lined out on the Federal Express "airbill receipt" by Federal Express and changed to January 24, 2002. The "airbill receipt" in your Lawrence, Kansas office confirms this fact.** Federal Express called the service desk at the Pasadena Kinko's to interview the Customer Service person concerning our shipment and learned that she was not at the desk on January 24, 2002 as she does not work on Thursdays. There is normally a substitute at her station from any one of the neighboring Federal Express service centers in the area. Neither Federal Express nor Kinko's can offer an explanation for how our letter managed to appear 60 miles from the original deposit site a full seven days later. Both companies expressed concern for accepting responsibility for the disappearance due to any liability for exposure to their respective companies' business and reputations, although we now have a Letter of Certification from Kinko's, supported by Federal Express, noting the delay in shipment.

While we can neither fully nor factually explain what happened to our Block 6 Certification Letter after we deposited it with Kinko's and Federal Express, we accept the burden of proving by SLD accepted means that our Block 6 Certification page was filed within the SLD time-line restrictions of January 17, 2002, 11:59PM (EST) / 8:59PM (PST). We have demonstrated our compliance with this requirement through the combination of our Federal Express billing slip and the signed Certification of Activity from the Kinko's Branch Office. We feel very strongly that we are victims of circumstances that remain beyond our control. In an effort to ensure that all elements of our application would meet the strict guidelines the SLD has set forward for E-Rate compliance, we used all of the time at our disposal for filing and Certifying our E-Rate application. We have been successful at doing the same for the past few years and hope that we are not punished in our attempt to do the same this year.

We therefore respectfully request that you consider our 2002 E-Rate application as filed with in the priority window and begin the review and funding decisions on our FRNs at your earliest convenience. If you have any further questions or need any further information, please contact us immediately so that we may assist you in any manner we can. Thank you for your consideration of our appeal and we look forward to working with you office to remedy this misunderstanding.

Cordially,



Franklin W. Fenton
Director, Baldwin Park Unified School District

**YOUR FORM 471 HAS BEEN RECEIVED -
BUT SUBMITTED AFTER THE 11:59 P.M. EST,
JANUARY 17 WINDOW CLOSE**

We're sending this card to thank you for your recent Form 471 application but also to let you know that your application was submitted after the 2002-2003 filing window closed at 11:59 p.m. EST on January 17, 2002.

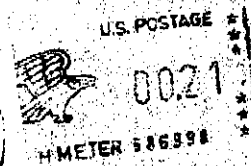
We are holding your application pending final processing of those applications that were filed within the filing window.

For more information on how the processing of 2002-2003 applications, about funding, or about the status of the filing window, about appealing the decision of your Form 471 application, or about plans for the 2003-2004 application window, visit our web site at www.fairchildservices.org or call the Client Service Bureau at 1-888-203-8100.

any

USAC

P.O. Box 7026
3833 Greenway Drive
Lawrence, KS 66044-7026



Franklin W. Fenton
BALDWIN PARK UNIF SCHOOL DIST
3699 HOLLY AVE
BALDWIN PARK, CA
91706

ATTENTION:
2002-2003 E-RATE APPLICANTS

MAILING DATE:
March 29, 2002

FedEx Express *USA Airbill*

FedEx
Tracking
Number

833110538277

1 From Please print and press hard.

Date 01-17-2002 Sender's FedEx
Account Number

Sender's Name BLOSD, NRMUSD, HBUHSD Phone (661) 510 3685

Company

Address 3699 Holly Avenue

City Baldwin Park State Ca ZIP 91706

2 Your Internal Billing Reference

First 24 characters will appear on invoice.

3 To

Recipient's Name Mr. Smith Phone (888) 203-8100

Company LD - form #71

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To "HOLD" at FedEx location, print FedEx address. We cannot deliver to P.O. boxes or P.O. ZIP codes.

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☐ FedEx Priority Overnight Next business morning ☒ FedEx Standard Overnight Next business afternoon ☐ FedEx First Overnight Earliest next business morning delivery to select locations

☐ FedEx 2Day Second business day ☐ FedEx Express Saver Third business day

4b Express Freight Service

☐ FedEx 1Day Freight* Next business day ☐ FedEx 2Day Freight Second business day ☐ FedEx 3Day Freight Third business day

* Call for Confirmation.

5 Packaging

☒ FedEx Envelope* ☐ FedEx Pak* Includes FedEx Small Pak, FedEx Large Pak, and FedEx Sturdy Pak. ☐ Other

6 Special Handling

☐ SATURDAY Delivery Available ONLY for FedEx Priority Overnight and FedEx 2Day to select ZIP codes. ☐ HOLD Weekday at FedEx Location NOT Available for FedEx First Overnight. ☐ HOLD Saturday at FedEx Location Available ONLY for FedEx Priority Overnight and FedEx 2Day to select locations.

Does this shipment contain dangerous goods? One box must be checked.

☐ No ☐ Yes As per attached Shipper's Declaration ☐ Yes Shipper's Declaration not required ☐ Dry Ice Dry Ice, 9, UN 1845 x kg ☐ Cargo Aircraft Only

7 Payment Bill to:

☐ Sender Acct. No. in Section 1 will be billed. ☐ Recipient ☐ Third Party ☒ Credit Card ☐ Cash/Check

FedEx Account No. 4189 4891 7242 50B Exp. Date 02/03

Total Packages 1 Total Weight 1.00 Total Declared Value* \$ 0.00

*Our liability is limited to \$100 unless you declare a higher value. See back for details.

8 Release Signature Sign to authorize delivery without obtaining signature.

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

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January 29, 2002

Eddie Smith, Jr.
ITEC Consulting and Management, Inc.
142 Fantasy Street
Palmdale, CA 93551

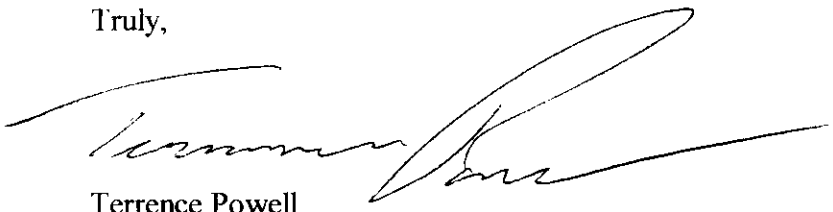
Re: *Certification of Activity*
Federal Express Routing Number 833110538277

To Whom It May Concern:

Federal Express has a drop off box located in our Kinkos Copy Center. Kinkos acts as an agent for Federal Express and is authorized to receive packages dropped off by Federal Express customers and picked up by Federal Express for delivery.

Eddie R. Smith, Jr. delivered to our store a Federal Express Letter envelope on January 17, 2002 for shipment to the Schools and Libraries Division of the Universal Service Administrative Company. Mr. Smith maintains his original Federal Express AirBill that shows the January 17, 2002 date, the date he completed the shipping receipt and delivered the package for shipment.

Truly,



Terrence Powell
Branch Office Manager

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*****
*
*                               TRANSACTION REPORT
*
*                               JUN-24-02 12:20 PM
*   FOR: ITEC CONSULTING & MGMT. 6612249376
*
*   SEND
*
*   DATE   START   RECEIVER   PAGES   TIME   NOTE
*
*   JUN-24 12:14 PM 12024180187    9   5'57"  OK
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